IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

OP.No. 23541 of 2000(C)

PETITIONER:

P.R. SIVANKUTTY NAIR,
RTD. TALUK SUPPLY OFFICER,
PANCHAVDY, MAYITHARA MARKET P.O.,
CHERTHALA, ALAPPUZHA DIST.

BY ADV. SRI.V.P.SUKUMAR

RESPONDENTS:
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1. **THE DIRECTOR OF CIVIL SUPPLIES,**
   THIRUVANANTHAPURAM.

2. **THE MANAGING DIRECTOR,**
   KERALA STATE CIVIL SUPPLIES CORPORATION,
   GANDHI NAGAR, COCHIN-20.

3. **THE ACCOUNTANT GENERAL (A&E),**
   KERALA, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. SANTHOSH KUMAR
ADV. SMT. MOLLY JACOB -SC,SUPPLYCO

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 39615/2000 IN OP NO. 23541/2000 C.

DISMISSED

29/10/2007. SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER DT. 21/12/96 BY THE R1.

EXT.P2. COPY OF THE ORDER DT. 26/6/97 BY THE R1.

EXT.P3. COPY OF THE ORDER DT. 9/12/96 BY THE ASST. SECRETARY-III.

EXT.P4. COPY OF THE ORDER DT. 7/6/00 BY THE COMMISSIONER OF CIVIL SUPPLIES.

EXT.P5. COPY OF THE LETTER DT. 3/2/99 RECEIVED BY THE PETITIONER FROM THE R2.

EXT.P6. COPY OF THE REPLY DT. 25/5/99 BY THE PETITIONER TO THE R2.

EXT.P7. COPY OF THE NOTICE DT. 23/06/99 REDCEIVED BY THE PETITIONER FROM THE REGIONAL MANAGER OF THE R2 CORPORATION.

EXT.P8. COPY OF THE REPLY DT. 1/07/99 BY THE PETITIONER TO EXT.P7 NOTICE.

EXT.P9. COPY OF THE GRATUITY PAYMENT ORDER DT. 19/3/98 ISSUED BY THE R3.

EXT.P10. COPY OF THE ORDER DT. 8/8/95 BY THE COMMISSIONER CIVIL SUPPLIES.

EXT.P11. COPY OF THE LETTER DT. 17/10/00 SENT FROM THE OFFICE OF R2 TO THE R1.

EXT.P12. COPY OF THE REPRESENTATION DT. 1/1/01 BY THE PETITIONER BEFORE THE R2.

EXT.P13. COPY OF THE LETTER DT. 20/1/2003 BY THE R1 TO THE SUB TREASURY OFFICER, CHERTHALA.

EXT.P14. COPY OF THE LIABILITY CERTIFICATE DT. 17/1/2003.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.23541 OF 2000

Dated this the 29th day of October, 2007

JUDGMENT

Petitioner retired on 30.11.1995 as Taluk Supply Officer. He had served the Civil Supplies Department and also the Civil Supplies Corporation. Some time in 1999, the Civil Supplies Corporation raised certain claims against some of the Government servants who had earlier worked on deputation in the Civil Supplies Corporation. This included demands for the differentials on stock verification and audit. Certain liabilities were also shown as against the petitioner and communications were issued to the Government officials. However, as already noticed, by that time, more than three years had elapsed after the retirement of the petitioner. The Government virtually sat over it without any cohesive interaction with the different limbs of governance. This is apparent from the statement placed on record on behalf of the Accountant General.

2. Ultimately, after the institution of this writ petition, Ext.P14 dated 17.1.2003, produced along with reply affidavit, is issued fixing liability on the petitioner. The second among them is shown as liability towards excess consumption of fuel, quantified at Rs.2,434/- and the first as liability towards Civil Supplies Corporation, quantified at Rs.16,843/-.

3. Without entering on the merits of the claim of the Civil Supplies Corporation for the said amounts, it can be noticed that the Government are not entitled to fix liability after termination of a period of three years after the retirement of the petitioner. This emanates out of Rule 3 of Part III K.S.R. So much so, Ext.P14, by which liability has been fixed, cannot stand to aid the Government to detain any amount that is due to the petitioner as retiral benefits, including DCRG.

In the result, it is declared that the Government are not entitled to withhold any amount from the pension or other retiral benefits, including DCRG, due to the petitioner. In terms of this

declaration, any amount withheld shall be released to the petitioner with 6% interest on such amounts from 1.1.2001 till payment, within a period of two months from the date of receipt of a copy of this judgment. The writ petition is allowed as above.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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29th OCTOBER, 2007.

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